

CHAPTER 8.07 FOOD PACKAGING

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8.07.010 Definitions.

- A. “City Administrator” means the City Administrator appointed under IMC [2.08.030](#) or designee.
- B. “City facility” means any building, structure, or vehicle owned or operated by the City of Issaquah.
- C. “Compostable” means made solely of organic substances where all the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner.
- D. “Disposable food service packaging” means all containers, clamshells, bowls, plates, trays, cartons, cups, lids, straws, utensils, napkins, and other items that are designed for use with food either on or off the food service business premises, including but not limited to packages for takeout foods and/or leftovers from food prepared by food service businesses. The term “disposable food service packaging” does not include items composed entirely of aluminum or polystyrene foam coolers and ice chests that are intended for reuse.
- E. “Disposable food service ware” means nonrecyclable or noncompostable: containers, plates, “clamshells,” trays, cups, and utensils that are made of plastic or plastic-coated paper and other nonrecyclable or noncompostable materials, and intended only for limited use (including so-called “biodegradable” products where any portion is not compostable).
- F. “Food” means food or beverages, which are served, packaged, cooked or uncooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared within the City of Issaquah for any persons, such as customers or consumers.
- G. “Food service business” means any restaurant, retail food seller, coffee shop, grocery store, vending truck or cart, business or institutional cafeteria, sales outlet, or other business, entity, or person selling or providing food to a consumer, whether the food is consumed on or off the

premises, that is located or operating within the City of Issaquah, whether on a permanent or temporary basis. "Food service business" also includes any person who is the owner, manager, president or director of such business.

H. "Person" means any individual, trust, firm, joint stock company, corporation, partnership, business, or association, including a government entity.

I. "Polystyrene" means blown polystyrene and expanded and/or extruded foams (sometimes referred to as "Styrofoam," a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

J. "Recyclable" means made solely of materials that are capable of being separated from a waste stream by a food service business and made available for collection and delivery to a processor for reuse or remanufacture into the same or other products. (Ord. 2565 § 1, 2009).

8.07.020 Prohibition on use of polystyrene, nonrecyclable, and noncompostable disposable food service packaging and disposable food service ware.

A. Upon the effective date for mandatory compliance with this chapter set forth in IMC [8.07.060](#), food service businesses shall be prohibited from selling or providing, in connection with food service, polystyrene, nonrecyclable, or noncompostable food service packaging or disposable food service ware, except as hereinafter provided in subsections D and E of this section.

B. Upon the effective date for mandatory compliance with this chapter set forth in IMC [8.07.060](#), City departments shall not purchase, acquire, or use polystyrene, nonrecyclable, or noncompostable disposable food service packaging or disposable food service ware in City facilities. City employees are strongly encouraged to refrain from possessing polystyrene, nonrecyclable, or noncompostable food service packaging or disposable food service ware brought from outside locations into City facilities.

C. Upon the effective date for mandatory compliance with this chapter set forth in IMC [8.07.060](#), any renter or lessee of a City-owned facility or City-owned property shall not use polystyrene, non-recyclable, or noncompostable disposable food service packaging or disposable food service ware on the premises of the rented or leased facility or property. This provision shall not apply to City-owned residential rental properties.

D. While businesses are encouraged to refrain from the sale of polystyrene, nonrecyclable, or noncompostable disposable food service packaging or disposable food service ware, nothing in this chapter shall prohibit businesses or individuals from engaging in the direct sale, purchase, or possession of such items in prepackaged multiple quantities from a retail or wholesale merchant.

E. Prepackaged soups and other foods that food service businesses sell or otherwise provide to their customers in polystyrene, nonrecyclable, or noncompostable disposable food service packaging or disposable food service ware that have been filled and sealed prior to receipt by the food service business shall be exempt from the requirements of this chapter. (Ord. 2565 § 1, 2009).

8.07.030 Recyclable or compostable disposable food service packaging and disposable food service ware required.

All food service businesses and City departments that are prohibited under this chapter from using or providing polystyrene, nonrecyclable or noncompostable food service packaging or disposable food service ware shall use a recyclable or compostable product. Acceptable product alternatives shall comply with the City's recycling and compost program. (Ord. 2565 § 1, 2009).

8.07.040 Requirement to enroll in a commercial food waste recycling service or keep containers for recyclable or compostable food packaging on premises for consumer use.

A. All food service businesses are required to utilize either a commercial food waste recycling service for compostable products and recyclable materials (such as the City's solid waste management program) or provide for such collection themselves. Food service businesses providing food for consumption on premises using compostable or recyclable food service packaging, must provide conveniently located and clearly marked containers for recycling and composting on site for consumers to dispose of food packaging that conforms to the requirements of this chapter, or provide for such recycling or composting themselves.

B. All food service businesses are prohibited from emptying or disposing of items in recycling or compost containers into trash bins, containers, or dumpsters not intended for recycling or compost.

C. Existing food service businesses that do not have adequate storage space for compliance with either indoor or outdoor containers for recycling and/or composting may be exempt from the requirements of subsection A of this section if so determined by the City Administrator or designee upon written request for an exemption. The City Administrator or designee, in cases where space constraints are determined to exist, may require the evaluation of the feasibility of shared recycling or composting containers by contiguous businesses and/or structures. (Ord. 2565 § 1, 2009). In addition, the City Administrator may modify enclosure, parking, landscape or other standards applicable to containers if such requirements would prevent the reasonable operation of food waste recycling or recycling service in order to meet the requirements of this section.

D. On such commercially reasonable terms as determined by the landlord, landlords of food service businesses subject to the requirements of this section shall make sufficient space and services available to such food service businesses for the collection and pick-up of compostable and recyclable materials generated by such food service businesses.

8.07.050 Enforcement and penalties.

A. Any person who violates the provisions of this chapter shall be cited and liable for a civil infraction; provided, however, that a written warning shall instead be issued to any person determined to be violating this chapter when such violation is the first instance of noncompliance known to the City Administrator or designee. If, after issuing a written warning, the City Administrator or designee becomes aware of subsequent noncompliance, he shall apply for or impose the sanctions described in this section.

B. Any person who receives a citation for a violation of this chapter shall respond within 15 days from the date that notice of the infraction is signed and served upon the violator by the City Code Compliance Officer. The issuance of an infraction by the City for a violation represents a determination that an infraction has been committed. A committed finding will be final if the violator does not respond as stated in this subsection.

C. Any person who receives a citation for a violation of this chapter may respond either by paying the fine amount to the City as established by this section, or requesting a hearing with the Issaquah Municipal Court.

D. If the infraction is found committed, either due to no response by the person cited, or a judicial determination that a violation has occurred by a preponderance of the evidence, then a person shall be punished with a fine of \$150.00 for a first violation, and \$300.00 for each subsequent violation committed within a calendar year. The existence of a prior written warning by the City Administrator or designee shall not be considered a first violation for purposes of this section. (Ord. 2565 § 1, 2009).

8.07.060 Effective dates of this chapter.

A. All provisions of this chapter, except for IMC [8.07.020](#) through [8.07.050](#), shall be effective upon adoption of this chapter.

B. The provisions of IMC [8.07.020](#) through [8.07.050](#) are not mandatory until October 1, 2010. From the adoption date of this chapter until October 1, 2010, the City and all food service businesses subject to this chapter should make reasonable efforts on a voluntary-compliance basis to procure recyclable or compostable food packaging, in anticipation of mandatory enforcement.

C. The provisions of IMC [8.07.020](#) through [8.07.050](#) shall become mandatory on October 1, 2010, except as hereinafter provided for in subsections D through F of this section.

D. A food service business may request a waiver from any part or all of the requirements in this chapter by filing a written request with the City Administrator or designee. The food service business seeking the waiver must show that the application of this chapter would create an undue hardship or practical difficulty based on the factors set forth in subsection F of this section. The City Administrator or designee may waive any specific requirement of this chapter for a period of time extending no later than July 1, 2011. The City Administrator or designee's decision to grant or deny a waiver, in whole or in part, shall be mailed to the applicant in writing, with a statement of the permitted waiver length, and shall be a final nonappealable decision.

E. Prior to July 1, 2011, only the following items are exempt from the requirements of IMC 8.07.020 through 8.07.050: containers and lids specifically designed and used for hot liquid-based food and beverages, utensils (knives, forks and spoons), foil-backed and composite papers used to wrap hot food, straws, cocktail picks, portion cups 2 ounces and less used for hot food or requiring lids and the sale of raw meat or raw seafood in any container by any food service business. Prior to July 1, 2011, public educational institutions are also exempt from the requirements of IMC 8.07.020 through 8.07.050. The City Administrator or designee may provide for temporary product waivers related to the use of certain food service packaging items. Such product waiver determinations may be for an initial period of not more than 12 months, and may provide options for extensions to expire no later than June 30, 2012. Such product waivers may only be granted for circumstances where commonly used recycling or composting services and technology cannot process the specific food service packaging or where suitable alternative products which meet performance and food safety standards are unavailable.

F. The following factors should be considered by the City Administrator or designee in granting or denying a waiver, in whole or in part, from the requirements of this chapter, as described in subsection D of this section: (1) the food service business seeking a waiver lacks the financial or other means to be in compliance with this chapter within a reasonable period of time; (2) the food service business seeking the waiver demonstrates, through due diligence, that particular products conforming to the requirements of this chapter are unavailable, pose recognized safety hazards, or will result in substantial financial harm; (3) the food service business seeking the waiver has maintained a business in Issaquah for less than one year. The factors listed herein are significant, but not intended to be the only considerations for the grant or denial of a waiver. The City Administrator or designee should make a decision concerning a request for waiver based on the preference of assisting a food service business to achieve compliance with this chapter while balancing the economic vitality of the business and striving to reduce any financially detrimental impacts on the applicant.

G. Except as provided for in 8.07.060E for temporary product waivers, on July 1, 2011, all waivers and exemptions from the requirements of this chapter will terminate and become invalid; and all provisions of this chapter will be subject to implementation and enforcement. (Ord. 2565 § 1, 2009).

8.07.070 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 2565 § 1, 2009).

8.07.080 No conflict with federal or state law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law. (Ord. 2565 § 1, 2009).